

### REMARKS

Claims 1-26 are pending in the application. In the Office Action of October 20, 2004, the Examiner made the following disposition:

- A.) Objected to claim 23 for informalities.
- B.) Rejected claims 1-13 and 22-25 under 35 U.S.C. §112, second paragraph.
- C.) Rejected claims 5, 7-10, 14-17, 22, and 24-25 under 35 U.S.C. §102(e) as being allegedly anticipated by *He, et al. (U.S. Patent No. 6,671,259)*.
- D.) Rejected claims 1-4, 6, 11-13, 18-21, 23, and 26 under 35 U.S.C. §103(a) as being allegedly unpatentable over *He, et al. (U.S. Patent No. 6,671,259)*.

Applicants respectfully traverse the rejections and address the Examiner's disposition below.

A.) Objection to claim 23 for informalities:

Claim 23 has been amended as per the Examiner's request to overcome the objection.

Applicants submit the objection has been overcome and request that it be withdrawn.

B.) Rejection of claims 1-13 and 22-25 under 35 U.S.C. §112, second paragraph:

Claims 1, 2, 5, 6, 8, 9, 10, 11, 14, 17, 18, 19, 22, 23, and 26 have been amended as per the Examiner's request to overcome the rejection.

Applicants submit the rejection has been overcome and request that it be withdrawn.

C.) Rejection of claims 5, 7-10, 14-17, 22, and 24-25 under 35 U.S.C. §102(e) as being allegedly anticipated by *He, et al. (U.S. Patent No. 6,671,259)*:

Applicants respectfully disagree with the rejection.

Independent claim 5 claims a method in a data processing system having a first and a second load balancing server and having a plurality of processing servers. The first load balancing server receives a request to perform a processing. The first load balancing server sends the request to the second load balancing server. The second load balancing server determines a load of each of the plurality of processing servers, and selects a selected one of the plurality of processing servers that is suitable for performing the processing.

Similarly, independent claim 14 claims a data processing system comprising a plurality of processing servers; a client that sends a request to have processing performed in a load balanced manner; and a first load balancing server that receives the request from the client; and a second load balancing server that receives the request from the first load balancing server.

Independent claim 22 claims a computer-readable medium containing instructions that cause a data processing system to perform a method having steps similar to the steps of claim 5.

Therefore, claims 5, 14, and 22 each claim subject matter relating to a first load balancing server that receives a request to perform processing and sends the request to a second load balancing server, which selects a processing server to perform the processing.

This is clearly unlike *He*, which fails to disclose or even suggest or even suggest a first load balancing server that receives a request to perform processing and sends the request to a second load balancing server. Referring to *He* Figure 1, *He* discloses a system having a plurality of load balancing servers LB 1-LB N. The system also has a load balancing selector LBS. A request to perform processing are received at the load balancing selector LBS, which sends the request to a determined load balancing server, such as LB 1. (*He* 3:65-4:4). The load balancing selector LBS can be a standalone device or implemented within a device that shares one or more load balancing servers. However, applicants note that in this latter case, the requests are still received by the load balancing selector LBS and sent to a load balancing server LB. (*He* 10:33-67).

Thus, unlike claims 5, 14, and 22 that claim that a first load balancing server receives a request to perform processing and sends the request to a second load balancing server, *He* teaches a load balancing selector LBS that receives a request and sends the request to a determined load balancing server. In other words, the request is not received at a load balancing server, but is instead received at the load balancing selector LBS. For at least this reason, *He* fails to disclose or even suggest claims 5, 14, and 22.

Claims 7-10, 15-17, and 24-25 depend directly or indirectly from claims 5, 14 or 22 and are therefore allowable for at least the same reasons that claims 5, 14, and 22 are allowable.

Applicants submit the rejection has been overcome and request that it be withdrawn.

D.) Rejection of claims 1-4, 6, 11-13, 18-21, 23, and 26 under 35 U.S.C. §103(a) as being allegedly unpatentable over *He, et al.* (U.S. Patent No. 6,671,259):

Applicants respectfully disagree with the rejection.

Similar to claim 5, independent claims 1, 11, 18, and 26 each claim subject matter relating to a load balancing slave that receives a request to perform processing and sends the request to a load balancing master, which selects a processing server to perform the processing.

This is clearly unlike *He*, which fails to disclose or even suggest or even suggest a load balancing slave that receives a request to perform processing and sends the request to a load

balancing master. Referring to *He* Figure 1, *He* discloses a system having a plurality of load balancing servers LB 1-LB N. The system also has a load balancing selector LBS. A request to perform processing are received at the load balancing selector LBS, which sends the request to a determined load balancing server, such as LB 1. (*He* 3:65-4:4). The load balancing selector LBS can be a standalone device or implemented within a device that shares one or more load balancing servers. However, applicants note that in this latter case, the requests are still received by the load balancing selector LBS and sent to a load balancing server LB. (*He* 10:33-67).

Thus, unlike claims 1, 11, 18, and 26 that claim that a load balancing slave receives a request to perform processing and sends the request to a load balancing master, *He* teaches a load balancing selector LBS that receives a request and sends the request to a determined load balancing server. In other words, the request is not received at a load balancing slave, but is instead received at the load balancing selector LBS. For at least this reason, *He* fails to disclose or even suggest claims 1, 11, 18, and 26.

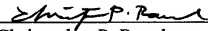
Claims 2-4, 6, 12, 13, 19-21 and 23 depend directly or indirectly from claims 1, 11, or 18 and are therefore allowable for at least the same reasons that claims 1, 11, and 18 are allowable.

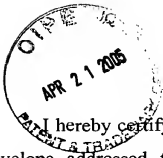
Applicants submit the rejection has been overcome and request that it be withdrawn.

CONCLUSION

In view of the foregoing, it is submitted that claims 1-26 are patentable. It is therefore submitted that the application is in condition for allowance. Notice to that effect is respectfully requested.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited as First Class Mail in an envelope addressed to Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450 on April 18, 2005.

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